



Jurisdiction

4. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.

Facts

5. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.

6. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.

7. The Defendant admits the allegations set forth in this paragraph of the Plaintiff's Complaint.

8. The Defendant denies the allegations set forth in this paragraph of the Plaintiff's Complaint.

9. The Defendant denies the allegations set forth in this paragraph of the Plaintiff's Complaint.

WHEREFORE, the Defendant denies the Plaintiff is entitled to judgment in any amount or kind.

THIRD AFFIRMATIVE DEFENSE

By way of affirmative defense, the Defendant states that the action was not brought in accordance with and within the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

The Defendant relies upon such other and further defenses as may become available to it during discovery in this action.

FIFTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the Defendant states that the Plaintiff is barred from recovery pursuant to M.G.L. c. 231, §6D.

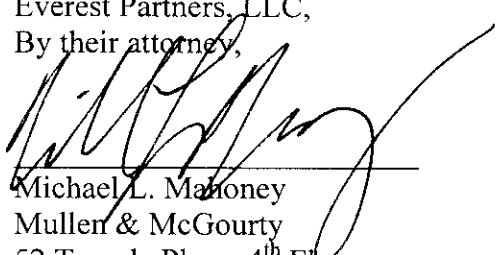
WHEREFORE, the Defendant denies that the Plaintiffs are entitled to have judgment entered in its behalf in any amount including, but not limited to, property damages, compensatory damages, multiple damages, punitive damages, exemplary damages, emotional distress, and any other relief.

**JURY CLAIM**

**THE DEFENDANT HEREBY DEMANDS A TRIAL BY JURY AS TO ALL  
ISSUES PROPERLY TRIABLE.**

Dated: April 20, 2005

Respectfully submitted,  
The Defendant,  
Everest Partners, LLC,  
By their attorney,



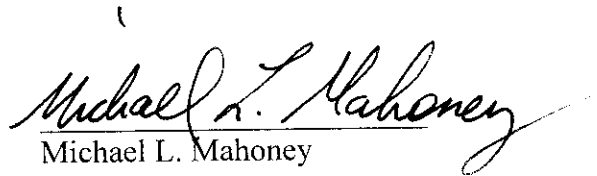
Michael L. Mahoney  
Mullen & McGourty  
52 Temple Place, 4<sup>th</sup> Floor  
Boston, MA 02111  
(617) 338-9200  
BBO# 557562

CERTIFICATE OF SERVICE

I, Michael L. Mahoney, hereby certify that I provided copies of the within documents to all parties by forwarding copies first class mail, postage prepaid to:

Howard H. Swartz, Esq.  
Law Offices  
3 Summer Street  
Chelmsford, MA 01824

Dated: April, 10 2005

  
Michael L. Mahoney